

REMARKS

Claims 2-5 have been amended to incorporate language more conventional in U.S. patent practice. Pending claims 1-6 and 9-13 are the subject of a restriction requirement, as follows:

Group I: claims 1-6 and 10, directed to compounds, compositions, and methods of making compounds of formula I;

Group II: claim 9, directed to intermediates of formula III.

Group III: claims 11-13, directed to methods of treatment of 5HT4-related disorders.

The Applicants hereby elect Group I, claims 1-6 and 10, with traverse, to the extent the Office intends to issue a further restriction based on the requested species election, based on structures (a-1)-(a-8). Structures (a-1)-(a-8) all represent cyclic ethers, varying only in the number of methylenes (1, 2, 3, 4, or 5) and the number of oxygens (1 or 2). These compounds should have similar search classifications; therefore, no search burden exists and the entirety of the elected claims should be searched without further restriction.

The Applicants disagree with the Office's allegation that the present invention is not novel in view of compound 5 of WO 00/37461. The compounds of the present invention require that R³ is C₁₋₆alkyl, C₁₋₆alkyloxy, or halo. In compound 5 of WO 00/37461, the corresponding position is unsubstituted, *i.e.*, is hydrogen. As a result, compound 5 is not within the scope of the pending claims. The pending claims are novel in view of WO 00/37461.

To the extent the Office requires an election of species, the Applicants elect compound 22, depicted on page 38 of Table F-1. Claims 1-6 and 10 are believed to encompass the elected species. It is Applicants' understanding that this species election is being made to aid the Examiner in conducting a search and examination of the claimed subject matter, and is not to be construed as limiting the scope of Applicants' claims. It is also Applicants' understanding that if the elected subject matter is found to be allowable over the prior art, the search and examination will be expanded to cover other species, until it includes the full scope of the generic claims included in the elected group.

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PATENT

An early and favorable Action on the merits is respectfully requested.

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